

# **EXHIBIT 1**

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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN JOSE DIVISION  
15

16 ANGEL FRALEY; PAUL WANG; SUSAN  
17 MAINZER; JAMES H. DUVAL, a minor, by  
and through JAMES DUVAL, as Guardian ad  
18 Litem; and WILLIAM TAIT, a minor, by and  
through RUSSELL TAIT, as guardian ad Litem;  
19 individually and on behalf of all others similarly  
situated,

20 Plaintiffs,

21 v.

22 FACEBOOK, INC, a corporation; and DOES 1-  
100,

23 Defendants.  
24  
25  
26  
27  
28

Case No. 11-CV-01726 LHK (PSG)

**STIPULATED PROTECTIVE ORDER FOR  
LITIGATION INVOLVING HIGHLY  
SENSITIVE CONFIDENTIAL INFORMATION  
AND/OR TRADE SECRETS**

Courtroom: 4  
Judge: Hon. Lucy H. Koh  
Trial date: None Set

1  
2 **1. PURPOSES AND LIMITATIONS**

3 Disclosure and discovery activity in this action are likely to involve production of  
4 confidential, proprietary, or private information for which special protection from public  
5 disclosure and from use for any purpose other than prosecuting this litigation may be warranted.  
6 Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated  
7 Protective Order. The parties acknowledge that this Order does not confer blanket protections on  
8 all disclosures or responses to discovery and that the protection it affords from public disclosure  
9 and use extends only to the limited information or items that are entitled to confidential treatment  
10 under the applicable legal principles. The parties further acknowledge, as set forth in Section  
11 13.3, below, that this Stipulated Protective Order does not entitle them to file confidential  
12 information under seal; Civil Local Rule 79-5 and General Order 62 set forth the procedures that  
13 must be followed and the standards that will be applied when a party seeks permission from the  
14 court to file material under seal.

15 **2. DEFINITIONS**

16 2.1 Challenging Party: a Party or Non-Party that challenges the designation of  
17 information or items under this Order.

18 2.2 "CONFIDENTIAL" Information or Items: information (regardless of how it is  
19 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule  
20 of Civil Procedure 26(c).

21 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as  
22 well as their support staff).

23 2.4 Designating Party: a Party or Non-Party that designates information or items that it  
24 produces in disclosures or in responses to discovery as "CONFIDENTIAL" or "HIGHLY  
25 CONFIDENTIAL – ATTORNEYS' EYES ONLY".

26 2.5 Disclosure or Discovery Material: all items or information, regardless of the  
27 medium or manner in which it is generated, stored, or maintained (including, among other things,  
28 documents, interrogatory responses, responses to requests for admission, testimony, transcripts,

1 and tangible things), that are produced or generated in disclosures or responses to discovery in  
2 this matter.

3 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to  
4 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or  
5 as a consultant in this action, (2) is not a past or current employee of a Party or of a Party's  
6 competitor, and (3) at the time of retention, is not, in good faith, reasonably anticipated to become  
7 an employee of a Party or of a Party's competitor.

8 2.7 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or  
9 Items: extremely sensitive "Confidential Information or Items," disclosure of which to another  
10 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by  
11 less restrictive means.

12 2.8 House Counsel: attorneys (and their support staff) who are employees of a party to  
13 this action. House Counsel does not include Outside Counsel of Record or any other outside  
14 counsel.

15 2.9 Non-Party: any natural person, partnership, corporation, association, or other legal  
16 entity not named as a Party to this action.

17 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this  
18 action but are retained to represent or advise a party to this action and have appeared in this action  
19 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

20 2.11 Party: any party to this action, including all of its officers, directors, employees,  
21 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

22 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
23 Material in this action.

24 2.13 Professional Vendors: persons or entities that provide litigation support services  
25 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and  
26 organizing, storing, or retrieving data in any form or medium) and their employees and  
27 subcontractors.

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1           2.14 Protected Material: any Disclosure or Discovery Material that is designated as  
2 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY".

3           2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a  
4 Producing Party.

5 **3. SCOPE**

6           The protections conferred by this Stipulation and Order cover not only Protected Material  
7 (as defined above), but also (1) any information copied or extracted from Protected Material;  
8 (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,  
9 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.  
10 However, the protections conferred by this Stipulation and Order do not cover the following  
11 information: (a) any information that is in the public domain at the time of disclosure to a  
12 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as  
13 a result of publication not involving a violation of this Order; and (b) any information known to  
14 the Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure  
15 from a source who obtained the information lawfully and under no obligation of confidentiality to  
16 the Designating Party. Any use of Protected Material at trial shall be governed by a separate  
17 agreement or order. The Parties agree that this Order does not sufficiently address the protection  
18 of source code. If source code is sought in discovery, the Parties will seek an additional  
19 Stipulated Order to protect disclosure of source code information.

20 **4. DURATION**

21           Even after final disposition of this litigation, the confidentiality obligations imposed by  
22 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court  
23 order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all  
24 claims and defenses in this action, with or without prejudice; and (2) final judgment herein after  
25 the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,  
26 including the time limits for filing any motions or applications for extension of time pursuant to  
27 applicable law. After the final disposition of this action, this court will retain jurisdiction to  
28 enforce the terms of this protective order.

1 **5. DESIGNATING PROTECTED MATERIAL**

2 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party  
3 or Non-Party that designates information or items for protection under this Order must take care  
4 to limit any such designation to specific material that qualifies under the appropriate standards.  
5 To the extent it is practical to do so, the Designating Party must designate for protection only  
6 those parts of material, documents, items, or oral or written communications that qualify – so that  
7 other portions of the material, documents, items, or communications for which protection is not  
8 warranted are not swept unjustifiably within the ambit of this Order.

9 Mass, routinized, or indiscriminate designations are prohibited. Designations that have  
10 been made for an improper purpose (e.g., to unnecessarily encumber or retard the case  
11 development process or to impose unnecessary expenses and burdens on other parties) may  
12 expose the Designating Party to sanctions upon sufficient findings as required under existing  
13 provisions of the Federal Rules of Civil Procedure.

14 If it comes to a Designating Party's attention that information or items that it designated  
15 for protection do not qualify for protection at all or do not qualify for the level of protection  
16 initially asserted, that Designating Party must promptly notify all other parties that it is  
17 withdrawing the mistaken designation.

18 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order  
19 (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise stipulated or ordered,  
20 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so  
21 designated before the material is disclosed or produced.

22 Designation in conformity with this Order requires:

23 (a) for information in documentary form (e.g., paper or electronic documents,  
24 but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing  
25 Party affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'  
26 EYES ONLY" to each page that contains protected material. For documents produced in native  
27 format, the Producing Party shall append "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL"  
28 to the filename.

1 A Party or Non-Party that makes original documents or materials available for inspection  
2 need not designate them for protection until after the inspecting Party has indicated which  
3 material it would like copied and produced. During the inspection and before the designation, all  
4 of the material made available for inspection shall be deemed "HIGHLY CONFIDENTIAL –  
5 ATTORNEYS' EYES ONLY". After the inspecting Party has identified the documents it wants  
6 copied and produced, the Producing Party must determine which documents, or portions thereof,  
7 qualify for protection under this Order. Then, before producing the specified documents, the  
8 Producing Party must affix the appropriate legend ("CONFIDENTIAL" or "HIGHLY  
9 CONFIDENTIAL – ATTORNEYS' EYES ONLY") to each page that contains Protected  
10 Material.

11 (b) for testimony given in deposition or in other pretrial or trial proceedings,  
12 that the Designating Party identifies on the record or up to 30 days after the completion of the  
13 deposition, whether protection is sought and the level of protection being asserted. Only those  
14 portions of the testimony that are appropriately designated for protection within the 30 days shall  
15 be covered by the provisions of this Stipulated Protective Order. If no designation is made at the  
16 deposition, the transcript shall be treated as "HIGHLY CONFIDENTIAL – ATTORNEYS'  
17 EYES ONLY" during the 30-day period referenced above. Alternatively, a Designating Party  
18 may specify, at the deposition or up to 30 days afterwards, that the entire transcript shall be  
19 treated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY".  
20 After the expiration of that period, the transcript shall be treated only as actually designated.

21 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or  
22 other proceeding to include Protected Material so that the other parties can ensure that only  
23 authorized individuals who have signed the "Acknowledgment and Agreement to Be Bound"  
24 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition  
25 shall not in any way affect its designation as "CONFIDENTIAL" or "HIGHLY  
26 CONFIDENTIAL – ATTORNEYS' EYES ONLY".

27 Transcripts containing Protected Material shall have an obvious legend on the title page  
28 that the transcript contains Protected Material. The Designating Party shall inform the court



1 reporter of these requirements.

2 (c) for information produced in some form other than documentary and for any  
3 other tangible items, that the Producing Party affix in a prominent place on the exterior of the  
4 container or containers in which the information or item is stored the legend "CONFIDENTIAL"  
5 or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY". If only a portion or portions  
6 of the information or item warrant protection, the Producing Party, to the extent practicable, shall  
7 identify the protected portion(s) and specify the level of protection being asserted.

8 5.3 Inadvertent Failures to Designate. An inadvertent failure to designate qualified  
9 information or items does not, standing alone, waive the Designating Party's right to secure  
10 protection under this Order for such material. Upon timely correction of a designation after the  
11 incorrect designation is actually discovered by the Designating Party, the Receiving Party must  
12 make reasonable efforts to assure that the material is treated in accordance with the provisions of  
13 this Order.

14 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

15 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of  
16 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality  
17 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
18 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to  
19 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
20 original designation is disclosed.

21 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution  
22 process by providing written notice of each designation it is challenging and describing the basis  
23 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written  
24 notice must recite that the challenge to confidentiality is being made in accordance with this  
25 specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in  
26 good faith and must begin the process by conferring within 14 days of the date of service of  
27 notice. In conferring, the Challenging Party must explain the basis for its belief that the  
28 confidentiality designation was not proper and must give the Designating Party an opportunity to



1 review the designated material, to reconsider the circumstances, and, if no change in designation  
2 is offered, to explain the basis for the chosen designation. A Challenging Party may proceed to  
3 the next stage of the challenge process only if it has engaged in this meet and confer process first  
4 or establishes that the Designating Party is unwilling to participate in the meet and confer process  
5 in a timely manner.

6       6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court  
7 intervention, the Challenging Party may file a motion challenging a confidentiality designation at  
8 any time if there is good cause for doing so, including a challenge to the designation of a  
9 deposition transcript or any portions thereof. Any motion brought pursuant to this provision must  
10 be accompanied by a competent declaration affirming that the movant has complied with the meet  
11 and confer requirements imposed by the preceding paragraph.

12       The burden of persuasion in any such challenge proceeding shall be on the Designating  
13 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose  
14 unnecessary expenses and burdens on other parties) may expose the Challenging Party to  
15 sanctions. All parties shall continue to afford the material in question the level of protection to  
16 which it is entitled under the Producing Party's designation until the court rules on the challenge.

## 17       7. **ACCESS TO AND USE OF PROTECTED MATERIAL**

18       7.1 Basic Principles. A Receiving Party and/or Receiving Party's counsel may access  
19 and use (only insofar as more specifically provided in this Order) Protected Material that is  
20 disclosed or produced by another Party or by a Non-Party in connection with this case only for  
21 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be  
22 disclosed only to the categories of persons and under the conditions described in this Order.  
23 When the litigation has been terminated, a Receiving Party must comply with the provisions of  
24 Section 14 below (FINAL DISPOSITION).

25       Protected Material must be stored and maintained by Receiving Party and Receiving  
26 Party's counsel at a location and in a secure manner<sup>1</sup> that ensures that access is limited to the

27 \_\_\_\_\_  
28 <sup>1</sup> It may be appropriate under certain circumstances to require the Receiving Party to store any electronic Protected  
Material in password-protected form.

1 persons authorized under this Order.

2       7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise  
3 ordered by the court or permitted in writing by the Designating Party, any information or item  
4 designated "CONFIDENTIAL" by the Designating Party shall be disclosed only to:

5           (a) the Receiving Party's Outside Counsel of Record in this action, as well as  
6 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the  
7 information for this litigation;

8           (b) the officers, directors, and employees (including House Counsel) of the  
9 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have  
10 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A) (for the sake of clarity,  
11 the parties agree that "CONFIDENTIAL" information or items shall not be disclosed to the  
12 named plaintiffs in this action);

13           (c) Experts (as defined in this Order) of the Receiving Party to whom  
14 disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment  
15 and Agreement to Be Bound" (Exhibit A) and as to whom the procedures set forth in Section  
16 7.4(a), below, have been followed;

17           (d) the court and its personnel;

18           (e) court reporters and their staff, professional jury or trial consultants, and  
19 Professional Vendors to whom disclosure is reasonably necessary for this litigation; and

20           (f) the author or recipient of a document containing the information or a  
21 custodian or other person who otherwise possessed or knew the information.

22       7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"  
23 Information or Items. Unless otherwise ordered by the court or permitted in writing by the  
24 Designating Party, any information or item designated "HIGHLY CONFIDENTIAL –  
25 ATTORNEYS' EYES ONLY" by the Designating Party shall be disclosed only to:

26           (a) the Receiving Party's Counsel in this action, as well as employees of said  
27 Counsel to whom it is reasonably necessary to disclose the information for this litigation (for the  
28

1 sake of clarity, the parties agree that "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
2 ONLY" information or items shall not be disclosed to the named plaintiffs in this action);

3 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably  
4 necessary for this litigation, (2) who have signed the "Acknowledgment and Agreement to Be  
5 Bound" (Exhibit A), and (3) as to whom the procedures set forth in Section 7.4(a), below, have  
6 been followed;

7 (c) the court and its personnel;

8 (d) court reporters and their staff, professional jury or trial consultants, and  
9 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have  
10 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A); and

11 (e) the author or recipient of a document containing the information or a  
12 custodian or other person who otherwise possessed or knew the information.

13 7.4 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
14 ONLY" information or items may be disclosed to an Expert without disclosure of the identity of  
15 the Expert as long as the Expert is not a current officer, director, employee, or consultant of a  
16 competitor of a Party or anticipated to become one.

17 (a) Unless otherwise ordered by the court or agreed to in writing by the  
18 Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) who is a  
19 current officer, director or employee of a competitor of a Party or anticipated to become one, any  
20 information or item that has been designated "HIGHLY CONFIDENTIAL – ATTORNEYS'  
21 EYES ONLY" pursuant to Section 7.3(b) first must make a written request to the Designating  
22 Party that (1) identifies the general categories of "HIGHLY CONFIDENTIAL – ATTORNEYS'  
23 EYES ONLY" information that the Receiving Party seeks permission to disclose to the Expert,  
24 (2) sets forth the full name of the Expert and the city and state of his or her primary residence,  
25 (3) attaches a copy of the Expert's current resume, (4) identifies the Expert's current employer(s),  
26 (5) identifies each person or entity from whom the Expert has received compensation or funding  
27 for work in his or her areas of expertise or to whom the expert has provided professional services,  
28

(d) Notwithstanding the above, Discovery Material may be provided to experts or consultants only to the extent necessary for such expert or consultant to prepare a written opinion, to prepare to testify, or to assist counsel or the Parties, provided that such expert or consultant is using said Discovery Material solely in connection with this Litigation, and further provided that such expert or consultant has previously executed an undertaking in the form attached hereto as Exhibit A, agreeing in writing to be bound by the terms and conditions of this Stipulation, consenting to the jurisdiction of this Court for purposes of enforcement of the terms of this Stipulation, and agreeing not to disclose or use any Discovery Material for purposes other than those permitted hereunder.

#### **8. PROSECUTION BAR**

Absent written consent from the Producing Party, any individual who receives access to "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information of the opposing party shall not be involved in the prosecution of patents or patent applications relating to the subject matter of the "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information he or she received before any foreign or domestic agency, including the United States Patent and Trademark Office ("the Patent Office"). For purposes of this paragraph, "prosecution" includes directly or indirectly drafting, amending, advising, or otherwise affecting the scope or maintenance of patent claims. To avoid any doubt, "prosecution" as used in this paragraph does not include representing a party challenging a patent before a domestic or foreign agency (including, but not limited to, a reissue protest, *ex parte* reexamination or *inter partes* reexamination). This Prosecution Bar shall begin when access to "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information is first received by the affected individual and shall end five (5) years after final termination of this action.

#### **9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION**

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party must:

1 (a) promptly notify in writing the Designating Party. Such notification shall  
2 include a copy of the subpoena or court order;

3 (b) promptly notify in writing the party who caused the subpoena or order to  
4 issue in the other litigation that some or all of the material covered by the subpoena or order is  
5 subject to this Protective Order. Such notification shall include a copy of this Stipulated  
6 Protective Order; and

7 (c) cooperate with respect to all reasonable procedures sought to be pursued by  
8 the Designating Party whose Protected Material may be affected.

9 If the Designating Party timely seeks a protective order, the Party served with the  
10 subpoena or court order shall not produce any information designated in this action as  
11 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a  
12 determination by the court from which the subpoena or order issued, unless the Party has obtained  
13 the Designating Party's permission. The Designating Party shall bear the burden and expense of  
14 seeking protection in that court of its confidential material – and nothing in these provisions  
15 should be construed as authorizing or encouraging a Receiving Party in this action to disobey a  
16 lawful directive from another court.

17 **10. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**  
18 **THIS LITIGATION**

19 (a) The terms of this Order are applicable to information produced by a Non-  
20 Party in this action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –  
21 ATTORNEYS' EYES ONLY". Such information produced by Non-Parties in connection with  
22 this litigation is protected by the remedies and relief provided by this Order. Nothing in these  
23 provisions should be construed as prohibiting a Non-Party from seeking additional protections.

24 (b) In the event that a Party is required, by a valid discovery request, to  
25 produce a Non-Party's confidential information in its possession, and the Party is subject to an  
26 agreement with the Non-Party not to produce the Non-Party's confidential information, then the  
27 Party shall:

- 28 1. promptly notify in writing the Requesting Party and the Non-Party

1 that some or all of the information requested is subject to a confidentiality agreement with a Non-  
2 Party;

3 2. promptly provide the Non-Party with a copy of the Stipulated  
4 Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific  
5 description of the information requested; and

6 3. make the information requested available for inspection by the  
7 Non-Party.

8 (c) If the Non-Party fails to object or seek a protective order from this court  
9 within 14 days of receiving the notice and accompanying information, the Receiving Party may  
10 produce the Non-Party's confidential information responsive to the discovery request. If the  
11 Non-Party timely seeks a protective order, the Receiving Party shall not produce any information  
12 in its possession or control that is subject to the confidentiality agreement with the Non-Party  
13 before a determination by the court.<sup>3</sup> Absent a court order to the contrary, the Non-Party shall  
14 bear the burden and expense of seeking protection in this court of its Protected Material.

15 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

16 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
17 Material to any person or in any circumstance not authorized under this Stipulated Protective  
18 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the  
19 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the  
20 Protected Material, (c) inform the person or persons to whom unauthorized disclosures were  
21 made of all the terms of this Order, and (d) request such person or persons to execute the  
22 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

23 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
24 **PROTECTED MATERIAL**

25 If Discovery Material that is subject to a claim of attorney-client privilege, attorney work  
26 product protection, or any other applicable privilege is inadvertently produced or disclosed

27 \_\_\_\_\_  
28 <sup>3</sup> The purpose of this provision is to alert the interested parties to the existence of confidentiality rights of a Non-  
Party and to afford the Non-Party an opportunity to protect its confidentiality interests in this court.



1 ("Inadvertent Production Material"), such inadvertent production shall in no way prejudice or  
2 otherwise constitute a waiver of, or estoppel as to, any claim of attorney-client privilege, attorney  
3 work product protection, or other applicable privilege.

4 (a) If a claim of inadvertent production is made, pursuant to this Stipulated  
5 Protective Order, with respect to Discovery Material then in the custody of another Party, that  
6 Party shall: (i) refrain from any further examination or disclosure of the claimed Inadvertent  
7 Production Material; (ii) promptly make a good-faith effort to return the claimed Inadvertent  
8 Production Material and all copies thereof (including summaries and excerpts) to counsel for the  
9 Producing Party, or destroy all such claimed Inadvertent Production Material (including  
10 summaries and excerpts) and certify in writing to that fact; and (iii) not use the Inadvertent  
11 Production Material for any purpose until further order of the Court expressly authorizing such  
12 use.

13 (b) A Party may move the Court for an order compelling production of the  
14 claimed Inadvertent Production Material. The motion shall be filed under seal and shall not assert  
15 as a ground for entering such an order the fact or circumstance of the inadvertent production.  
16 While such a motion is pending, the Discovery Material in question shall be treated in accordance  
17 with paragraph 12(a) above.

18 (c) If a Party, in reviewing Discovery Material it has received from the other  
19 Party or any non-Party, finds anything the reviewing Party believes in good faith may be  
20 Inadvertent Production Material, that Party shall: (i) refrain from any further examination or  
21 disclosure of the potentially Inadvertent Production Material; (ii) promptly identify the material in  
22 question to the Producing Party (by document number or other equally precise description); and  
23 (iii) give the Producing Party seven (7) days to respond as to whether the material was, in fact,  
24 inadvertently produced. If the Producing Party makes a claim of inadvertent production, the  
25 provisions of paragraph 12(a) above shall apply.



1 **13. MISCELLANEOUS**

2 13.1 Right to Further Relief. Nothing in this Order abridges the right of any person to  
3 seek its modification by the court in the future.

4 13.2 Right to Assert Other Objections. By stipulating to the entry of this Protective  
5 Order no Party waives any right it otherwise would have to object to disclosing or producing any  
6 information or item on any ground not addressed in this Stipulated Protective Order. Similarly,  
7 no Party waives any right to object on any ground to use in evidence of any of the material  
8 covered by this Protective Order.

9 13.3 Filing Protected Material. Without written permission from the Designating Party  
10 or a court order secured after appropriate notice to all interested persons, a Party may not file in  
11 the public record in this action any Protected Material. A Party that seeks to file under seal any  
12 Protected Material must comply with Civil Local Rule 79-5 and General Order 62. Protected  
13 Material may only be filed under seal pursuant to a court order authorizing the sealing of the  
14 specific Protected Material at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue  
15 only upon a request establishing that the Protected Material at issue is privileged, protectable as a  
16 trade secret, or otherwise entitled to protection under the law. If a Receiving Party's request to  
17 file Protected Material under seal pursuant to Civil Local Rule 79-5(d) is denied by the court, then  
18 the Receiving Party may file the Protected Material in the public record pursuant to Civil Local  
19 Rule 79-5(e) unless otherwise instructed by the court.

20 **14. FINAL DISPOSITION**

21 Within 60 days after the final disposition of this action, as defined in Section 4, each  
22 Receiving Party must return all Protected Material to the Producing Party or destroy such  
23 material. As used in this subdivision, "all Protected Material" includes all copies, abstracts,  
24 compilations, summaries, and any other format reproducing or capturing any of the Protected  
25 Material. Whether the Protected Material is returned or destroyed, the Receiving Party must  
26 submit a written certification to the Producing Party (and, if not the same person or entity, to the  
27 Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all  
28 the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has

1 not retained any copies, abstracts, compilations, summaries or any other format reproducing or  
2 capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to  
3 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,  
4 legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work  
5 product, and consultant and expert work product, even if such materials contain Protected  
6 Material. Any such archival copies that contain or constitute Protected Material remain subject to  
7 this Protective Order as set forth in Section 4 (DURATION).

8  
9 **IT IS SO STIPULATED.**

10 Dated: August 23, 2011

COOLEY LLP

11  
12 /s/ Matthew D. Brown

Matthew D. Brown

13 Attorneys for Defendant Facebook, Inc.

14 Dated: August 23, 2011

THE ARNS LAW FIRM

15  
16 /s/ Steven R. Weinmann

Steven R. Weinmann

17 – and –

18 Dated: August 23, 2011

JONATHAN JAFFE LAW

19  
20 /s/ Jonathan M. Jaffe

Jonathan M. Jaffe

21 Attorneys for Plaintiffs

22  
23 **IT IS SO ORDERED.**

24  
25 DATED: September 15, 2011

Paul S. Grewal

HON. PAUL S. GREWAL

UNITED STATES MAGISTRATE JUDGE

**ATTESTATION PURSUANT TO GENERAL ORDER 45**

I, Matthew D. Brown, attest that concurrence in the filing of this **STIPULATED PROTECTIVE ORDER FOR LITIGATION INVOLVING HIGHLY SENSITIVE CONFIDENTIAL INFORMATION AND/OR TRADE SECRETS** has been obtained from each of the other signatories. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 23rd day of August, 2011, at San Francisco, California.

/s/ Matthew D. Brown  
Matthew D. Brown

**EXHIBIT A**

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address],

declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on \_\_\_\_\_ [date] in the case of *Angel Fraley, et al. v. Facebook, Inc.*, Case No. 11-cv-01726-LHK (PSG). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ [print or type full name] of  
\_\_\_\_\_ [print or type full  
address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_  
[printed name]

Signature: \_\_\_\_\_

966260 v1/HN